

STATE OF CALIFORNIA
WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 20632

Application 29767 of Vista del Lago Vineyards

c/o John Buehler, 820 Greenfield Road, St. Helena, CA 94574

filed on June 26, 1990, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

<u>Unnamed Stream</u>	<u>Lake Hennessey thence</u>
<u></u>	<u>Conn Creek thence</u>
<u></u>	<u>Napa River thence</u>
<u></u>	<u>San Pablo Bay</u>
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2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
By California Coordinate System, Zone 2 Storage and Rediversion - Reservoir VDL #1 North 308,700 feet and East 1,891,200 feet	NW $\frac{1}{4}$ of SE $\frac{1}{4}$	26	8N	5W	MD
Storage - Reservoir VDL #2 North 307,300 feet and East 1,891,050 feet	SW $\frac{1}{4}$ of SE $\frac{1}{4}$	26	8N	5W	MD

County of Napa

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acre
SEE	ADDENDUM					

The place of use is shown on map on file with the State Water Resources Control Board.

ADDENDUM

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5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed a total of 70 acre-feet per annum to be collected from November 1 of each year to May 15 of the succeeding year as follows: 21 acre-feet per annum in Reservoir VDL # 1, and 49 acre-feet per annum in Reservoir VDL # 2. (0000005)

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose. (0000005I)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)

7. Construction work shall begin within two years of the date of this permit and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked. (0000007)

8. Construction work shall be completed by December 31, 1995. (0000008)

9. Complete application of the water to the authorized use shall be made by December 31, 1996. (0000009)

10. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until a license is issued. (0000010)

11. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)

12. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust. (0000012)

13. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)

14. This permit is subject to the continuing authority of the State Water Resources Control Board to reduce the amount of water named in the permit upon a finding by the Board that the amount is in excess of that reasonably needed to be held in storage for the authorized use. No action will be taken by the Board without prior notice to the owner and an opportunity for hearing. (0000042)

15. Permittee shall install and maintain an outlet pipe of adequate capacity in each dam as near as practicable to the bottom of the natural stream channel, or provide other means satisfactory to the State Water Resources Control Board in the dam for Reservoir VDL #1, in order that water entering the reservoirs which is not authorized for appropriation under this permit can be released. Before starting construction, permittee shall submit plans and specifications of the outlet pipes or alternative facilities to the Chief of the Division of Water Rights for approval. Before storing water in the reservoirs, permittee shall furnish evidence which substantiates that the outlet pipes or alternative facilities have been installed in each dam. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer. (0050043)

16. Permittee shall install and properly maintain in each reservoir a staff gage, satisfactory to the State Water Resources Control Board, for the purpose of determining water levels in the reservoirs.

Permittee shall record the staff gage readings on or about April 30, October 1 and November 1 of each year. Such readings shall be supplied to the State Water Resources Control Board with the next progress report submitted to the Board by permittee.

The State Water Resources Control Board may require the release of water which cannot be verified as having been collected to storage prior to October 1 of each year.

Permittee shall allow a designated representative of the City of Napa reasonable access to each reservoir for the purpose of verifying staff gage readings and determining water levels in the reservoirs. (0070047)

17. Should Lake Hennessey not fill during any season between November 1 of each year and April 30 of the succeeding year, permittee shall upon demand of the City of Napa, release from its reservoirs into the natural stream channel the water impounded during that same season. After release of said water pursuant to demand, permittee will not be required to make any further releases during said year. If Lake Hennessey fills at any time during the season November 1 of each year to April 30 of the succeeding year, no release by permittee will be required. (016C001)

18. For the preservation of fish and wildlife, permittee shall, no later than six months after the construction or modification of each storage reservoir, furnish and plant trees of one gallon or larger size at 1) an average interval of one tree for every 15 feet of the shoreline around the perimeter of Reservoir VDL #1 at full pool and 2) an average interval of one tree for every 10 feet of the shoreline around the perimeter of Reservoir VDL #2 at full pool. The trees shall be planted in groves. The trees shall be spaced a minimum of 10 feet apart within an area of 500 feet from the high water line of each reservoir. The species of trees selected for planting shall be live oak, bay, buckeye or cottonwood, and/or other species native to the Conn Creek watershed. Wherever possible, the composition of tree species selected for planting should approximate that found in the vicinity of the points of diversion for Reservoirs VDL #1 and VDL #2 designated in this permit. The composition of tree species shall be subject to approval by the California Department of Fish and Game. Permittee shall notify the California Department of Fish and Game prior to initiation of and following completion of tree replanting.

Permittee shall irrigate and maintain the trees for a period of three years such that an 80 percent or greater survival rate is achieved. Permittee shall notify the California Department of Fish and Game at the end of three growing seasons and arrange with the Department to inspect the site and certify that the mitigation criteria have been met. If a survival rate of 80 percent or greater is not achieved in three years, permittee shall notify the State Water Resources Control Board and a plan for replanting which is satisfactory to the California Department of Fish and Game shall be developed. (0400300)

19. For wildlife enhancement and control of erosion, permittee shall reseed all exposed soil surfaces not to be inundated by water, including the outboard face of each dam, upon completion of construction. Permittee shall consult the California Department of Fish and Game for approval of an appropriate seed mixture for reseeding. Permittee shall periodically inspect the seeded areas during the rainy season and reseed and mulch any area where seed growth is not progressing. Permittee shall notify the California Department of Fish and Game prior to initiation of and following completion of vegetation reseeding. (0400300)
20. Permittee shall install a silt fence across the drainage downstream of all grading. (0400300)
21. Permittee shall install a stilling basin at the base of the spillway for each dam. The stilling basins shall be formed by overexcavating the existing stream channel and lining with rock slope protection (RSP). The minimum stilling basin diameter at ground surface shall be 20 feet and have minimum 1-1/2:1 side slopes. RSP shall conform to Sec. 72, class light, C.S.S. Mirifi 140N, or equal geotextile fabric, shall be placed between rock and original ground. (0400300)
22. To minimize erosion, permittee shall limit all grading activities to the period of April 15 through September 15 of any year. Permittee shall limit all work between April 15 and October 15 of any year. Permanent erosion control measures shall be in place by October 15 of any year construction has occurred. (0400300)
23. Permittee shall comply with all County of Napa regulations. The project shall be certified as complete by the County of Napa. (0450300)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

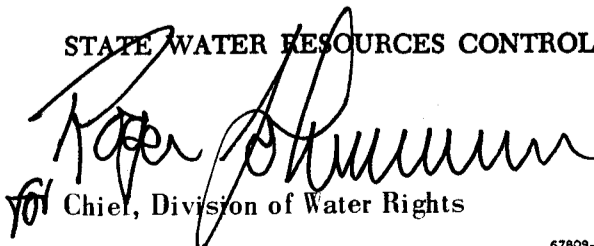
Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated:

JULY 13 1992

STATE WATER RESOURCES CONTROL BOARD


Chief, Division of Water Rights